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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,891	01/16/2002	Samuel L. Ingalls	040898004US	7918

25096 7590 09/24/2003

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/051,891	Applicant(s) INGALLS, SAMUEL L.	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 73-84 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 73-84 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Election was made **without** traverse in Paper No. 5. Claims 23-72, and 85-98 are canceled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7, and 13-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is meant by "first ply being outboard of the second ply".

It is unclear what elements comprise the first and second score lines in claim 13.

In claim 14, it is unclear how can the first inner panel positioned adjacent the first outer panel. Applicant is required to indicate all of the panels and fold lines in the claims.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 6-8, 12, 14-17, 19, 21, 73-75, 77-81, 83, and 84 are rejected under 35 U.S.C. 102(b) as being anticipated by McFarland et al. (4693413). McFarland teaches a container with an outer tube 10 having at least four outer side panels, and corners with first and

second score lines 46 and 44, an inner tube portion 96 having at least four inner side panel, and corners with third and fourth score lines 44 and 46 as shown in Fig. 7.

With respect to claims 8 and 19, with respect to the offset distance being determined based on the outer side panel thickness, it is submitted that the method of determine the offset distance does not read over the container in McFarland. In other words, the 1st offset distance being greater than the 2nd offset distance regardless of the method being utilized.

Regarding claim 12, the first, second, third and fourth score lines are formed on the inner surfaces of both the inner and outer tubes as shown in Fig. 7.

6. Claims 1, 3, and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Blatt (3873017). Blatt teaches a container with an outer tube having at least four outer side panels, and corners with first and second score lines 46 and 44, an inner tube portion 96 having at least four inner side panel, and corners with third and fourth score lines 44 and 46 as shown in Fig. 7.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McFarland et al. in view of Kantz (4268255). McFarland meets all claimed limitations except for the container being an octagonal. Kantz teaches that it is known in the art to provide a container having 8-side panels. It would have been obvious to one of ordinary skill in the art to provide a container having 8 sides in McFarland as taught by Kantz to provide the desired container for shipping.

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9. Claims 4, 5, 8-11, 18, 20, 22, 76, and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarland. It would have been obvious to one of ordinary skill in the art to provide third, fourth and fifth plies in McFarland to provide the desired support for the inner layer.

It would have been obvious to one of ordinary skill in the art to provide the container with the distance as set forth to provide the desired offset distance of the container.

Regarding claim 18, it would have been obvious to one of ordinary skill in the art to use triple-wall corrugated board in the

10. Claims 13, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarland in view of Shuert (5279423). McFarland meets all claimed limitations except for the score lines are formed on the outer tube outer surface. Shuert teaches that it is known in the art to provide score lines on the outer tube outer surface at 100a in Fig. 18. It would have been obvious to one of ordinary skill in the art to provide score lines on the outer tube outer surface in McFarland as taught by Shuert to provide the desired location for the score lines and/or to fold the container easily.

11. Claims 1-3, 8, 14, 15, 19, 21, 22, 73, 74, 76, and 79-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogle et al. (5489061) in view of Heiskell (5497939). Fogle teaches a outer ply 16, and an inner ply 16 with score lines 40 and 40' as shown in Fig. 5. Fogle meets all claimed limitations except for the container being made from corrugated material. Heiskell teaches that it is known in the art to make a container from corrugated container (col. 4, lines 37). It would have been obvious to one of ordinary skill in the art to make a container from corrugated material in Fogle as taught by Heiskell to provide added strength.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai 
Primary Examiner
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